

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Civil Action No. 01-12257-PBS
)
) Subcategory No. 06-11337-PBS
THIS DOCUMENT RELATES TO:)
) Hon. Patti B. Saris
)
United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Abbott Laboratories,)
Civil Action No. 06-11337-PBS;)
)
United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)
)
United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Boehringer)
Ingelheim Corp., et al., Civil Action No. 07-)
10248-PBS)

**UNOPPOSED MOTION BY THE UNITED STATES
FOR LEAVE TO FILE SUR-REPLY IN OPPOSITION TO DEFENDANTS'
MOTIONS FOR A FINDING OF SPOILATION AND FOR SANCTIONS**

The United States files this unopposed motion for leave to file a sur-reply in opposition to the motions by Abbott, Dey, and Roxane for a finding of spoliation and sanctions against the United States. The United States respectfully suggests that by allowing the Government to file a sur-reply, the Court will be able to make a more fully-informed decision regarding the merits of the defendants' spoliation motions. Counsel for defendants advised that he will not oppose this request.

Respectfully submitted,

For the United States of America,

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Dated: December 4, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above UNITED STATES' UNOPPOSED MOTION FOR LEAVE TO FILE SUR-REPLY IN OPPOSITION TO DEFENDANTS' MOTIONS FOR A FINDING OF SPOLIATION AND FOR SANCTIONS to be served on all counsel of record via electronic service by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Date: December 4, 2009

/s/ Justin Draycott
Justin Draycott